

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff Investment  
Securities, LLC,

Plaintiff,

v.

KUNIN FAMILY LIMITED PARTNERSHIP;  
PAUL D. KUNIN REVOCABLE TRUST;  
PAUL D. KUNIN, individually, in his capacity  
as a General Partner of the Kunin Family  
Limited Partnership, and as Grantor and  
Trustee for the Paul D. Kunin Revocable Trust;  
BEVERLY C. KUNIN, individually, in her  
capacity as a General Partner of the Kunin  
Family Limited Partnership, and as Trustee for  
the Paul D. Kunin Revocable Trust; WENDI  
KUNIN, individually and in her capacity as a  
Limited Partner of the Kunin Family Limited  
Partnership; JENNIFER B. KUNIN,  
individually and in her capacity as a Limited  
Partner of the Kunin Family Limited  
Partnership; and CYNTHIA L. GINSBERG,  
individually and in her capacity as a Limited  
Partner of the Kunin Family Limited  
Partnership,

Defendants.

Adv. Pro. No. 10-04666 (SMB)

**STIPULATION AND ORDER  
DISMISSING ADVERSARY PROCEEDING WITHOUT PREJUDICE**

WHEREAS, on December 1, 2010, Irving H. Picard, as trustee (“Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) against the Kunin Family Limited Partnership; Paul D. Kunin Revocable Trust; Paul D. Kunin, individually, in his capacity as a General Partner of the Kunin Family Limited Partnership, and as Grantor and Trustee for the Paul D. Kunin Revocable Trust; Beverly C. Kunin, individually, in her capacity as a General Partner of the Kunin Family Limited Partnership, and as Trustee for the Paul D. Kunin Revocable Trust; Wendi Kunin, individually and in her capacity as a Limited Partner of the Kunin Family Limited Partnership; Jennifer B. Kunin, individually and in her capacity as a Limited Partner of the Kunin Family Limited Partnership; and Cynthia L. Ginsberg, individually and in her capacity as a Limited Partner of the Kunin Family Limited Partnership (collectively, the “Defendants”) in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, Defendants Paul D. Kunin and Beverly D. Kunin (“Hardship Defendants”) submitted to the Trustee a hardship application (the “Hardship Application”) requesting that the Trustee agree to dismiss the Adversary Proceeding. In support of the Hardship Application, Hardship Defendants submitted to the Trustee financial statements and other information, all under penalty of perjury; and

WHEREAS, in reliance on the representations made by Hardship Defendants in the Hardship Application and other representations and/or materials submitted by Hardship Defendants in support of the Hardship Application, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss the Adversary Proceeding without prejudice;

IT IS HEREBY agreed and stipulated between the Trustee and Defendants as follows:

1. Hardship Defendants hereby affirm (i) that all representations made by Hardship Defendants and all materials provided by Hardship Defendants have been submitted by Hardship Defendants as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to dismiss the Adversary Proceeding without prejudice.

2. Defendants hereby agree that to the extent it is subsequently determined that Hardship Defendants deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Application, the Defendants hereby agree (i) that the Trustee shall have the right to reinstitute the Adversary Proceeding against Defendants and/or pursue other remedies available to him and (ii) that Defendants agree that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, Defendants hereby agree to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendants hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, Trustee's claims against Defendants are dismissed without prejudice.

4. Defendants represent that they have had ample opportunity to review and discuss this Stipulation and Order with counsel and have knowingly elected not to do so.

5. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and

the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

6. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: May 31, 2017

<p>By: <u>/s/ Nicholas J. Cremona</u> David J. Sheehan Nicholas J. Cremona BAKER &amp; HOSTETLER LLP 45 Rockefeller Plaza New York, New York Telephone: (212) 589-4200 Fax: (212) 589-4201</p> <p><i>Attorneys for Irving H. Picard, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and the Estate of Bernard L. Madoff</i></p>	<p><u>/s/ Paul D. Kunin</u> Kunin Family Limited Partnership By: Paul D. Kunin, General Partner</p> <p><u>/s/ Paul D. Kunin</u> Paul D. Kunin Revocable Trust By: Paul D. Kunin, Trustee</p> <p><u>/s/ Paul D. Kunin</u> Paul D. Kunin, individually, in his capacity as a General Partner of the Kunin Family Limited Partnership, and as Grantor and Trustee for the Paul D. Kunin Revocable Trust</p> <p><u>/s/ Beverly C. Kunin</u> Beverly C. Kunin, individually, in her capacity as a General Partner of the Kunin Family Limited Partnership, and as Trustee for the Paul D. Kunin Revocable Trust</p> <p><u>/s/ Wendi Kunin</u> Wendi Kunin, individually and in her capacity as a Limited Partner of the Kunin Family Limited Partnership</p> <p><u>/s/ Jennifer B. Kunin</u> Jennifer B. Kunin, individually and in her capacity as a Limited Partner of the Kunin Family Limited Partnership</p>
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**SO ORDERED:**

By: /s/ STUART M. BERNSTEIN  
**HON. STUART M. BERNSTEIN**  
**UNITED STATES BANKRUPTCY JUDGE**

Date: May 31<sup>st</sup>, 2017